

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION OR :
REVOCATION OF THE CERTIFICATE OF : ADMINISTRATIVE ACTION
:
Tyisha Bell, C.H.H.A. :
Certificate No. 26NH12326000 :
:
: FINAL ORDER OF DISCIPLINE
:
TO PRACTICE AS A :
HOMEMAKER-HOME HEALTH AIDE :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Tyisha Bell ("Respondent") was certified to practice as a Homemaker-Home Health Aide in the State of New Jersey on October 20, 2010 and has been a licensee at all times hereto.

2. The Board received a complaint from a neighbor of A.S., a 90-year old man who was being cared for by Respondent, a certified homemaker-home health aide. The complaint, dated August 30, 2013 alleged that A.S. had been absent from his home since March 2013, that Respondent had A.S.'s telephone turned off in July 2012,

regularly picked A.S. up from his home at 6:00 a.m. and returned him to his home at 8:30-9:00 p.m. and that Respondent was A.S.'s power of attorney and had complete control over him.

3. By way of background, in February 2011, Respondent was hired as a certified homemaker-home health aide by Compassionate Care Hospice ("CCH") to provide care for A.S.'s wife and provided care until the wife's death on November 30, 2011. At the time Respondent was hired by CCH, she signed a Non-Solicitation and Non-Disclosure Statement, agreeing not to solicit, among others, patients while employed by CCH. A.S. lived in the home with his wife until her death. Respondent also acknowledged receiving Policy 1099 from CCH. Item 15 of the Policy prohibits asking for or accepting of gifts from a patient's family.

Following the death of A.S.'s wife, A.S.'s nephew, J.S., hired Respondent privately and not through an agency to provide care for A.S. At the time J.S. hired Respondent, J.S. was A.S.'s power of attorney. On February 6, 2012, approximately two months after Respondent began caring for A.S., Respondent replaced J.S. as A.S.'s power of attorney. At the same time, A.S. executed a Last Will and Testament naming Respondent as Executrix and leaving his residuary estate, including his house, to Respondent.

4. J.S. reported to the Carneys Point Township Police Department his concern that Respondent was taking advantage of A.S. and that large sums of money were withdrawn by Respondent from

A.S.'s account. The police report states that Respondent withdrew approximately \$120,000.00 from A.S.'s bank account between February 2012 and January 2013.

5. As a result of the information received by the Board, the Board sent a subpoena to Respondent to appear before the Board for an investigative inquiry to be held on July 1, 2015. The Board sent the subpoena to Respondent's address of record in Woodstown, New Jersey, via regular and certified mail on or about June 9, 2015. The regular mail was not returned. No authorized recipient was available to receive the certified mail and a notice was left.

6. Respondent did not appear at the investigative inquiry and did not contact the Board regarding the subpoena, and, on July 10, 2015, the Board filed a Provisional Order of Discipline for Respondent's failure to cooperate with a Board investigation.

7. On July 14, 2015, Respondent's attorney contacted the Board and asserted that Respondent had not received the subpoena to appear in July 1, 2015 because it was not sent to the mailing address she provided to the Board.

8. On July 22, 2015, Respondent's attorney consented to service of a subpoena to appear at an investigative inquiry to be held on September 16, 2015 and Respondent appeared at that inquiry.

9. At the inquiry, Respondent testified that A.S. paid her a salary of \$1155.00 per week and gave her \$120,000.00 as a gift for caring for his wife, while Respondent was employed as a certified

homemaker-home health aide. Respondent testified that she worked as a companion/domestic worker for A.S. and that she was not using her certification as a homemaker-home health aide when caring for him. She further testified that, in addition to the gift of \$120,000.00, A.S. gave her the proceeds of his wife's life insurance policy to build an additional room onto Respondent's house for A.S. Respondent further testified that A.S. spends most of his time at her house and, that, when she is not at home, members of her family, who are not certified homemaker-home health aides, care for A.S.

CONCLUSIONS OF LAW

Respondent's acceptance of \$120,000.00 from A.S. as a gift for caring for his wife while Respondent was employed as a certified homemaker-home health aide was a violation of CCH's Standard of Conduct and constitutes a boundary violation, which the Board deems professional misconduct under N.J.S.A. 45:1-21(e), subjecting Respondent to disciplinary action.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a five year suspension (three years active, 2 years stayed/served as probation), \$10,000 civil penalty, and \$120,000 restitution was entered on October 13, 2015. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00

p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order of Discipline. Respondent pleaded for leniency and maintained that she looks after A.S. as a member of her family and that A.S. entered into a voluntary, consensual, and happy living arrangement with her and her family. She further argues that she never intended or contemplated any harm to A.S. Respondent ignores the obvious financial harm that occurred to A.S. by her acceptance of over \$120,000 of his funds. Respondent also provided a letter, purportedly drafted by A.S.'s attorney, whereby the attorney acknowledges that Respondent is and has been providing care to A.S. and that A.S. (90 years old) is "generally aware" of his circumstances and condition and is happy with the care being provided by Respondent. Notably, the letter indicates that A.S. considers Respondent a care provider, and not as a family member

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that

the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law. By accepting extensive amounts of money, labeled as gifts, Respondent crossed and violated an ethical boundary - a boundary which ideally separates a caregiver's power and a care recipient's vulnerability. By doing so, Respondent also violated her employer's policy prohibiting caregivers from accepting from a patient or the patient's family, any loan or gift of money or any object of material value.

ACCORDINGLY, IT IS on this 2nd day of February, 2015,
ORDERED that:

1. The Provisional Order of Discipline for failure to cooperate, filed on July 10, 2015 is hereby withdrawn.

2. Respondent's certificate to practice as a homemaker-home health aide is hereby suspended for a period of five (5) years. The first three (3) years shall be served as a period of active suspension and the latter two (2) years shall be served as a period of probation. Respondent shall refrain from engaging in practice as a certified homemaker-home health aide and shall not represent herself as a certified homemaker-home health aide, which includes but is not limited to performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed professional nurse, until such time as her certification is reinstated. Any practice in this State as a certified homemaker-

home health aide prior to such reinstatement shall constitute grounds for a charge of unlicensed practice.

3. Respondent shall remit payment of a fine, penalty and investigative cost in the amount of ten thousand dollars (\$10,000.00) pursuant to N.J.S.A. 45:1-25. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to Twalema Khonje, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of a FINAL ORDER OF DISCIPLINE. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

4. Respondent shall make restitution of \$120,000 to A.S. Payment shall be made no later than fifteen (15) days after the date of filing of a FINAL ORDER OF DISCIPLINE.

5. Respondent shall, within 5 (five) days, mail her certificate, wall and wallet version, to practice as a homemaker-home health aide to Twalema Khonje, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101.

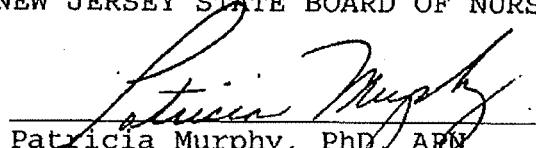
6. Prior to reinstatement of Respondent's certificate to practice in New Jersey, Respondent must apply to the Board, provide proof of (1) full payment of the penalty required by paragraph 3 above and (2) full restitution required by paragraph 4 above and demonstrate fitness and competency to practice. Respondent must appear before the Board (or a committee thereof) to demonstrate her fitness to practice, and any practice in this State prior to said appearance shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on Respondent's practice should her certification be reinstated.

7. In the event that Respondent is reinstated as a certified homemaker-home health aide in New Jersey, Respondent shall provide a copy of any FINAL ORDER OF DISCIPLINE to any future employer who employs her as a certified homemaker-home health aide in New Jersey.

8. The Board reserves the right to initiate disciplinary proceedings based upon any new information the Board receives.

NEW JERSEY STATE BOARD OF NURSING

By:


Patricia Murphy, PhD, APRN
President